IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5546 OF 2006

Shri Visu Krishnaji Sathaye ..Petitioner
Vs.
Shri Ganesh Mahadeo Dabak ..Respondent

Mr. Nitin P. Deshpande for petitioner.
Mr. Prabhakar Palnitkar for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : March 16, 2007.

P.C.:

1. Heard Mr. Deshpande the learned counsel for the petitioner-tenant.

2. This petition arises from the concurrent view taken by the courts below in rejecting Misc. Application No. 141 of 2004 by the learned Judge of the Small Causes Court for providing the Toilet block to the tenant on the ground floor.

3. Misc. Application No.141 of 2004 was filed before the Small Causes Court under Section 29 of the Maharashtra Rent Control Act, 1999 praying for the directions to provide the Toilet facility on the

ground floor. Both the courts below have noted that, initially, the petitioner had taken on rent one room located on the ground floor and it had a Toilet block facility in the open yard, in the year 1981. However, in the year 1983 the petitioner wanted larger premises and, therefore, he surrendered the single room on the ground floor and shifted to the first floor so as to occupy two rooms block on rent and after so shifting on the first floor, he continued to use the Toilet block located in the open yard of the premises. In the year 1991-92 the landlord had decided to construct another building in the vacant land available around the bungalow and for that the Toilet block was demolished. In this new building the petitioner purchased a flat for his son and the same was handed over for occupation sometimes in June 1993 (Flat No.201). At this stage, the petitioner vacated the first floor block and started staying in the new flat purchased. However, he required additional premises for his own occupation and, therefore, he asked for the vacant block available on the ground floor with only one room. The landlord gave it to the petitioner sometimes in the 1993 itself and it is contended by

the landlord that till the year 1998 while occupying the single room the petitioner was using the Toilet facility available in his son's flat which is just eight steps above this tenanted room. In the year 1998 the landlord required the premises back for the occupation of his widowed daughter and minor son. It is alleged that the petitioner was not in favour of surrendering the same and therefore, he started creating troubles. It is averred by the landlord that from the year 1993 to 1998 no such dispute of availability of Toilet block was ever raised and first notice was issued sometimes in June 2000. These averments could not be disputed by the petitioner before the lower courts and in any case when he shifted to the ground floor for the second time, the toilet block in the open plot was demolished and a new building had come up in its place.

4. Under these prima facie considerations the courts below did not find merit in the prayer made by the petitioner. The view taken by both the courts below cannot be termed as perverse or illegal so as to call for interference under supervisory powers of this

court under Article 227 of the Constitution and, therefore, this petition must fail at the threshold.

5. The petition is rejected summarily.

(B.H. Marlapalle,J.)